


KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 09-107	PAGE NUMBER 1 of 4
		SUBJECT: SAFETY & SANITATION: Tobacco-Free Environment	
Approved By:  Secretary of Corrections		Original Date Issued: 09-25-02	Current Amendment Effective: 11-10-10
		Replaces Amendment Issued: 07-31-09	

POLICY

The Kansas Department of Corrections is committed to providing a safe and secure working and living environment, an environment that is clean and sanitary, an environment that promotes good health, and an environment in which resources are efficiently utilized. As a means of achieving such an environment, all department facilities and grounds are, and shall remain, tobacco-free. Persons in non-correctional facility offices may have tobacco and/or tobacco related products in their possession, but may not consume or openly display such products while on the premises where the office is located.

Management and supervisory staff shall be responsible for ensuring ongoing compliance with this tobacco-free environment policy within their work area. They shall adhere to standard practices in resolving issues of nonconformance and maintaining expected levels of productivity within their respective departments.

A violation of this IMPP by an inmate may, in addition to any disciplinary consequences, also result in the warden or the warden's designee imposing a suspension of contact visitation for up to one year.

DEFINITIONS

Contract Personnel: Any person who works in a Department of Corrections' operated facility or office and is employed by an entity under contract to provide services to the Department.

Employee: For the purpose of this policy, any person employed full-time or part-time by the Kansas Department of Corrections.

Off-Site Functions: Includes activities away from the normal work location or field work, which are outside of regular day-to-day tasks and responsibilities (i.e. training, conferences, workshops, etc.).

Smoking Paraphernalia: Includes items such as lighters, matches, altered batteries, cigarette papers, rolling machine, and other items that would facilitate one in the use of tobacco or tobacco related products.

Tobacco or Tobacco Related Products: Includes cigarettes; "electronic" or "e" cigarettes; pipes; pipe tobacco; loose-leaf tobacco; tobacco substitutes, including chemical supplies for "electronic" or "e" cigarettes; chewing tobacco; smokeless tobacco; cigars; matches; cigarette lighters; smoking paraphernalia, including chargers, batteries, atomizers, and any other items related to the functioning of "electronic" or "e" cigarettes; and all items developed or processed for the primary purpose of facilitating the use or possession of tobacco, tobacco related, or tobacco-based products. Tobacco or tobacco related products do not include pharmacological aids for smoking cessation approved by the Food and Drug Administration (FDA).

Tobacco Substitutes: Any substance ingested by smoking or herbal/leaf-based substitutes for chewing tobacco.

Volunteer: Any person who works at a facility or for the Kansas Department of Corrections on a voluntary basis, including interns.

Work Hours: Time spent at work, excluding non-compensated lunch periods.

PROCEDURES

I. Prohibition of Tobacco or Tobacco Related Products

- A. The use or possession of all tobacco or tobacco related products by any person is prohibited on property under the supervision and control of the Secretary, except as provided herein.
 - 1. Persons in non-correctional facility offices may have tobacco or tobacco related products within their possession, but may neither consume nor openly display such products on the premises where the office is located.
 - 2. Individuals may secure tobacco and tobacco-based or tobacco related products in their personal motor vehicles in the parking lot of a Department facility or office, unless they are intended for distribution within an office or facility. If the items in a vehicle are intended for distribution to an inmate, they shall be considered contraband and the involved individuals shall be subject to prosecution.
 - a. Tobacco or tobacco related products may neither be removed from such personal motor vehicles nor be used and/or consumed until the vehicle and its operator and passengers are off of any property under the supervision and control of the Department.
 - 3. Staff may transport tobacco or tobacco related products in a state vehicle if they are not in the presence of an inmate or parolee. Tobacco or tobacco related products may not be consumed in a state vehicle.
- B. Appointing Authorities shall be authorized to allow exceptions regarding the use and storage of matches and lighters by staff in order for them to fulfill their job duties or to perform authorized functions.
- C. Employees (including off-site detail supervisors), contract personnel, and volunteers shall not be allowed to use tobacco or tobacco related products during work hours, except that they shall be allowed to utilize tobacco or tobacco related products off-site when in a personal vehicle or while attending off-site functions when not in the presence of inmates or parolees.
 - 1. An employee whose duty assignment places that employee in direct contact with an inmate while away from facility grounds, including during the supervision of work details, while providing transportation, and during hospital supervision, shall not be in possession of tobacco or tobacco related products.
- D. Each employee, volunteer, and contract personnel shall read, sign, and date a copy of the Affirmation of Policy Form (Attachment A).
 - 1. Candidates for these positions shall complete the form prior to employment or delivery of services to a facility or office.

II. Enforcement Sanctions

- A. Any person who is found in violation of the tobacco prohibition provisions of this document shall be subject to discipline and possible prosecution in accordance with the provisions of KSA 21-3826.
 - 1. Employees violating this policy shall be disciplined in concert with applicable provisions of IMPP 02-118.

2. Contract personnel violating this policy shall be dealt with as follows:
 - a. A three [3] day gate stop for the first offense;
 - b. A ten [10] day gate stop for the second offense; and,
 - c. A permanent gate stop for the third offense.
 - d. In the event that two or more years have passed since the most recent disciplinary action for possession and/or use of tobacco or tobacco related products, a next violation shall be considered as the first violation.
 3. Volunteers violating this policy shall receive a written warning for the first offense, and shall be removed from the volunteer program upon the second offense.
 - a. In the event that two or more years have passed since the most recent violation and written warning action for possession and/or use of tobacco or tobacco related products, retention or removal of the volunteer from the volunteer program shall be at the discretion of the affected warden or other appointing authority.
 4. A violation of this IMPP by an inmate may, in addition to any disciplinary consequences, also result in either the warden or his/her designee imposing a suspension of contact visitation for up to one year.
- B. Violations of this policy by a volunteer, visitor, or contractor may result in termination of their visits and/or delivery of services to the Department and may be subject to prosecution.
- C. Vendors making deliveries inside the secured confines of a facility shall secure their tobacco and tobacco substitute products with appropriate staff at entrance and exits points.
1. Vendors making deliveries on-site, outside of the secured perimeter, shall ensure these items are secured in their vehicles at all times.

III. Religious Use

- A. An exception to the tobacco-free environment shall be in effect for religious activities as outlined below:
1. Tobaccos and/or tobacco mixtures shall be allowed in specified amounts in accordance with facility policy.
 2. All tobacco shall be stored in a locked file and/or cabinet by Chaplaincy staff.
 - a. Medicine bags containing tobacco shall be confiscated, at which time inmates shall make a decision to mail out the medicine bag at his/her expense or have the medicine bag destroyed.
 3. Appointing Authorities shall designate appropriate security protocols for receipt and distribution of said tobacco and the use/storage of any lighters and/or matches.
 4. Use of tobacco during religious activities shall be limited to inmates who are participating in their designated primary religion.
 5. Religious use of tobacco or tobacco substitutes shall not be allowed in any building.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to

establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to either employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 21-3826, 21-4009 et seq, 75-5228
KAR 28-36-22, 44-2-103, 44-12-901
Executive Order #94-165
IMPP 02-118, 10-110
ACI 3-4363
NCCHC P-50

ATTACHMENTS

Attachment A – Affirmation of Policy Form, 1 Page

AFFIRMATION OF POLICY FORM

Statement of Policy

The Kansas Department of Corrections is committed to providing a safe and secure working and living environment, an environment that is clean and sanitary, an environment that promotes good health, and an environment in which resources are efficiently utilized. As a means of achieving such an environment, all Department correctional facilities shall be tobacco-free effective March 17, 2003.

Persons may possess tobacco or tobacco related products at non-correctional facility offices, but may not consume or openly display such products while on the premises of where the office is located.

The use or possession of all tobacco products by any person is prohibited on all correctional facility property. Employees may possess, but not consume, tobacco products while in a state vehicle except if they are in the presence of an inmate or parolee or are on the grounds of a correctional facility. Individuals may secure tobacco and tobacco-based products in their personal motor vehicles in the parking lot of a Department facility or office, unless it is intended for distribution within an office or facility. On and after March 17, 2003, any person who is found in violation of the tobacco prohibition provisions shall be subject to discipline and possible prosecution in accordance with KSA 21-3826 and/or KSA 21-4009 et. seq. (Smoking in a Public Place)

Affirmation of Policy

As an employee, volunteer, or contract personnel or as a candidate for these positions, I affirm that I have read and understand the meaning of the above statement of policy regarding the Department of Corrections' tobacco-free environment. I am aware of my obligations to adhere to this policy.

Signature of Employee/Volunteer/Contract Personnel or Candidate

Date

Signature of Supervisor or Agency Representative

Date